IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

Tr.P(Crl.).No. 78 of 2007()

CMP.1603/2007 of J.M.F.C.-I,KOTTARAKKARA

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PETITIONER: ACCUSED:

JUSTIN P.O., JSS COMMUNICATIONS,
T-24/1246, JYOTHIPURAM, CHALAI P.O.,
THIRUVANANTHAPURAM-36.

BY ADV. SRI.M.R.SUDHEENDRAN
SRI.SURAJ.S

RESPONDENTS:

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1. DR.P.K.JANARDHANAKURUP, PAMPUTHARA HOUSE, OLAKETTIYAMBALAM, MAVELIKKARA.

2. STATE OF KERALA REPRESENTED BY THE SUB INSPECTOR OF POLICE, KOTTARAKKARA, THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

R2 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 09/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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T.P.(Crl.).No. 78 of 2007

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Dated this the 9th day of October, 2007

O R D E R

Application for transfer. According to the petitioner, the petitioner had allegedly issued five cheques to the first respondent. In respect of four of those cheques, prosecutions under Section 138 of the N.I. Act have been initiated before the Trivandrum court. In respect of the fifth cheque, an allegation is raised that the petitioner has committed the offence under Section 420 I.P.C. A private complaint has been filed before the learned Magistrate at Kottarakkara, which was referred to the police under Section 156(3) Cr.P.C. Investigation is not complete. Final report has not been filed. At this stage, the petitioner has come to this court with a prayer that the case filed before the First Class Magistrate - I, Kottarakkara - private complaint - may be ordered to be transferred to the Court at Trivandrum, which is seized of the other prosecutions under Section 138 of the N.I. Act. Obviously the request is not maintainable. In respect of the 5th cheque no proceedings had been initiated so far and no case is pending before any court. The matter is pending investigation before the police, the Magistrate having

referred the complaint under Section 156(3) Cr.P.C. The crime which is pending investigation cannot be directed to be transferred to a court invoking the power of transfer under Section 407 Cr.P.C. The prayer is misconceived and unsustainable.

3. This petition is accordingly dismissed.

(R. BASANT)
Judge

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